S.B.Civil Writ Petition No.2225/2007

Naresh Kumar and another.

vs.

State of Rajasthan.

Date : 6.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.V Goyal, for the petitioners.

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Heard learned counsel for the petitioners.

The petitioners straightway have challenged the order of the Collector (Stamps), Bikaner dated 30.12.2006 by filing this writ petition instead of availing the remedy of revision which lies before the Board of Revenue.

According to the petitioners, this Court in its judgment delivered in the case of M/s. Bhilwara Spinners Ltd., Bhilwara and another vs. Collector (Stamps), Bhilwara and others reported in AIR 1998 Rajasthan 293, held that the writ petition cannot be dismissed on the ground of availability of remedy where there is a condition of deposit of 50% of recoverable

amount for entertainment of revision petition. This judgment was delivered in the matter under the same Act i.e. Stamps Act.

I considered the submissions of learned counsel for the petitioner and considered the judgment of this Court delivered in the case of Bhilwara Spinners Ltd. (supra) as well as the facts of the case.

Para 17 of the judgment delivered in the case of Bhilwara Spinners Ltd. (supra) is relevant which reads as under :-

> "17. The present writ petition was admitted on 11-4-97. The respondents have entered appearance and filed detailed return. The matter has been heard at length coupled with this the petitioner-Company would be required to deposit 50% of the recoverable amount for entertainment of the revision petition under S. 56 of the Act or under the Rules, Rajasthan Stamp Act, 1955. I do not find it proper, just and fair to dismiss the writ petition on the preliminary objection of the counsel for the respondents of availability of alternative remedy of revision petition."

It is clear from the said judgment that the Court,

in the facts and circumstances of that case, where the petition was filed long before when the matter came up for consideration and by that time, the parties completed their pleadings and the matter was already heard at length, held that the writ petition at that stage could not have been dismissed on the ground of availability of alternate remedy. It is not in dispute that the validity of condition of deposit of 50% of the amount before filing the revision petition in such matter has already been upheld.

In view of the above, I do not find any reason to entertain this writ petition when effective alternate remedy is available to the petitioner.

Consequently, this writ petition is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya